

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**Sable Networks, Inc. and
Sable IP, LLC,**

Plaintiffs,

v.

Cloudflare, Inc.,

Defendant.

**Civil Action No.
6:21-cv-00261-ADA**

JURY TRIAL DEMANDED

AMENDED JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court’s Scheduling Order (Dkt. 41), the Parties submitted the Joint Claim Construction Statement on January 5, 2022. Dkt. 48. On March 4, 2022, Plaintiff Sable Networks, Inc., the owner of U.S. Patent No. 6,977,932 (the “’932 patent”) and U.S. Patent No. 8,243,593 (the “’593 patent”), filed statutory disclaimers as to the ’932 patent and ’593 patent under 35 U.S.C. § 253 and 37 C.F.R. § 1.321, statutorily disclaiming all claims of the ’932 patent and claims 1, 2, 4-8, 14-16, 25-28, and 34-36 of the ’593 patent. As a result, the constructions of claim terms present only in the ’932 patent are no longer in dispute, and the identification of claims for the terms of the ’593 patent has changed. The Parties, therefore, respectfully submit this Amended Joint Claim Construction Statement, which omits the terms found only in the ’932 patent and updates the identification of claims for the terms of the ’593 patent.

The claim terms identified below as agreed upon or being in dispute are found in U.S. Patent Nos. 6,954,431 (the “’431 patent”) (Dkt. 29-2); 7,012,919 (the “’919 patent”) (Dkt. 29-4); and 8,243,593 (the “’593 patent”) (Dkt. 29-5).

I. AGREED CONSTRUCTIONS

Claim Term	Patent and Claims	Agreed Construction
“behavioral statistics”	8,243,593 (3, 9, 29)	“statistics reflecting the empirical behavior of the flow”
“flow block”	8,243,593 (3)	Plain and ordinary meaning
“flow”	8,243,593 (3, 9, 29)	Plain and ordinary meaning
“guaranteed rate traffic”	6,954,431 (12, 23)	“network traffic that has a guaranteed transmission rate”

“means for maintaining a set of behavioral statistics for the flow, wherein the set of behavioral statistics is updated based on each information packet belonging to the flow, as each information packet belonging to the flow is processed, regardless of the presence or absence of congestion”	8,243,593 (29)	Governed by pre-AIA 35 U.S.C. § 112, ¶ 6 Function: maintaining a set of behavioral statistics for the flow, wherein the set of behavioral statistics is updated based on each information packet belonging to the flow, as each information packet belonging to the flow is processed, regardless of the presence or absence of congestion Structure: router 102, flow block 402, statistics block 302, line card 202, misbehaving flow manager 210. See cols. 5:44-48, 6:9-24, 7:18-36, 7:38-45, 8:8-21, 8:41-56, 9:35-38, 9:49-51, and associated Figures
“microflow / micro-flow”	6,954,431 (1-29) 7,012,919 (1-29)	Plain and ordinary meaning
“packet discard time”	6,954,431 (8, 17, 19-22, 24)	Plain and ordinary meaning
Preamble of ‘431 Patent Claim 19	6,954,431 (19)	Limiting

II. LIST OF DISPUTED TERMS

	Claim Term	Patent and Claims	Sable's Proposed Construction	Cloudflare's Proposed Construction
1.	"based on a characteristic" [Cloudflare Term]	6,954,431 (1, 10)	Plain and ordinary meaning	"based on a characteristic associated with the microflow"
2.	"means for determining a capacity of a buffer containing a microflow based on a characteristic" [Cloudflare Term]	6,954,431 (10)	Function: determining a capacity of a buffer containing a microflow based on a characteristic. Structure: ingress micro-flow manager 505 (including the micro-flow recognizer 520 and micro-flow classifier 530), memory 550 (including the storage block table 560 and flow block table 570), linecard 410, and equivalents thereof. <i>See</i> cols. 13:11-14:46, and associated Figures.	Indefinite
3.	"weighting factor" [Sable Term]	6,954,431 (16, 19, 21-22, 25, 26)	"the portion of an available rate a micro-flow is able to be delegated as compared to other micro-flows"	"factor indicating the portion of available rate bandwidth to be delegated to the micro-flow compared to other micro-flows"
4.	"a delay variation substructure configured to provide a buffer value to dampen jitter in a transmission of the microflow" [Cloudflare Term]	6,954,431 (19)	Not governed by pre-AIA 35 U.S.C. § 112, ¶ 6; Plain and ordinary meaning	Governed by pre-AIA 35 U.S.C. § 112, ¶ 6; Indefinite

5.	“the predetermined value for the microflow timeout period substructure comprises is less than 32 seconds” [Cloudflare Term]	6,954,431 (29)	Plain and ordinary meaning	Indefinite
6.	“aggregate flow” [Cloudflare Term]	7,012,919 (25, 26)	Plain and ordinary meaning Alternatively (per Sur-reply): “a plurality of individual data flows”	(per Reply) “a plurality of individual, but related, data flows”
7.	“label switched path(s)” [Sable Term]	7,012,919 (26, 27)	“a predetermined path for the transport of one or more traffic flows or packets”	“an MPLS Layer 2 Label Switched Path (LSP) to transport one or more traffic flows over a predetermined path”
8.	“badness factor” / “undesirable behavior” [Cloudflare Term]	8,243,593 “badness factor” (9, 29) “undesirable behavior” (3, 9, 29)	Plain and ordinary meaning	Indefinite
9.	“based at least partially upon the set of behavioral statistics” [Cloudflare Term]	8,243,593 (9, 29)	Plain and ordinary meaning	“based at least partially upon the set of behavioral statistics, but not any statistics associated with another flow”

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By: /s/ Daniel P. Hipskind

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this March 11, 2022 with a copy of this document via the Court's CM/ECF System.

/s/ Daniel P. Hipskind
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